

IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
CLERK SUPERIOR COURT  
GWINNETT COUNTY, GA

2017 MAR -6 PM 1:11

VIOLET DAVIDSON,

Civil Action File No.

17-A-01385-10

Plaintiff,

v.

WAL-MART STORES, INC.,  
WAL-MART STORES EAST, LP,

Defendants.

ANSWER OF DEFENDANTS

COME NOW, Defendants WAL-MART STORES, INC. (erroneously named)  
and WAL-MART STORES EAST, LP and make this Answer to Plaintiff's Complaint  
as follows:

FIRST DEFENSE

Wal-Mart Stores, Inc. is not a proper party.

SECOND DEFENSE

Plaintiff's claims are barred by insufficiency of service and insufficiency of  
process as to Wal-Mart Stores, Inc.

THIRD DEFENSE

Plaintiff's claims are barred by insufficiency of service and insufficiency of  
process as to Wal-Mart Stores East, LP.

FOURTH DEFENSE

Plaintiff's Complaint fails to state a claim against Defendants upon which

relief can be granted.

FIFTH DEFENSE

Plaintiff's alleged damages, if any, were directly and proximately caused by Plaintiff's own contributory negligence and failure to exercise ordinary care.

SIXTH DEFENSE

Plaintiff was not in the exercise of ordinary care for her own safety in the premises, and by the exercise of ordinary care could have avoided any injury to herself; and on account thereof, Plaintiff is not entitled to recover from Defendants.

SEVENTH DEFENSE

Defendants deny that they were negligent in any manner whatsoever or that any negligent act or omission on their part caused or contributed to any injury or damage alleged to have been sustained by Plaintiff.

EIGHTH DEFENSE

Plaintiff assumed the risk of any hazard that was presented and is thereby barred from recovering against Defendants.

NINTH DEFENSE

Defendants respond to the enumerated paragraphs of Plaintiff's Complaint as follows:

1.

Defendants admit the allegations contained in paragraph 1 of the Plaintiff's Complaint.

2.

Defendants deny the allegations contained in paragraph 2 of Plaintiff's Complaint, as stated.

3.

Defendants admit the allegations contained in paragraph 3 of the Plaintiff's Complaint, but show that Wal-Mart Stores, Inc. is not a proper Defendant.

4.

Defendants admit jurisdiction and venue, but show that Wal-Mart Stores, Inc. is not a proper Defendant.

5.

Defendants admit only that Wal-Mart Stores East, LP operated the subject store. Defendants deny the remaining allegations contained in paragraph 5 of the Plaintiff's Complaint.

6.

Defendants lack sufficient knowledge and information to either admit or deny the allegations contained in paragraph 6 of Plaintiff's Complaint.

7.

Defendants deny the allegations contained in paragraph 7 of Plaintiff's Complaint.

8.

Defendants deny the allegations contained in paragraph 8 of Plaintiff's

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing ANSWER OF DEFENDANTS has this day been served upon opposing counsel, by placing same in the United States Mail, postage prepaid, and addressed as follows:

Robert W. Lamb  
Perrotta & Cahn, LLC  
5 South Public Square  
Cartersville, GA 30120

This the 3<sup>rd</sup> day of March, 2017.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, reading "Howard M. Lessinger", written over a horizontal line.

Howard M. Lessinger  
Georgia Bar No. 447088  
Attorney for Defendants  
WAL-MART STORES, INC.  
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E.  
Suite 500  
Atlanta GA 30326  
(404) 365-4514  
(404) 364-3138 (fax)  
hlessinger@mmatllegal.com

IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

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CLERK OF SUPERIOR COURT  
GWINNETT COUNTY, GA

2017 MAR -6 PM 1:11

VIOLET DAVIDSON,

Civil Action File No.

17-A-01385-10 HOWARD ALEXANDER, CLERK

Plaintiff,

v.

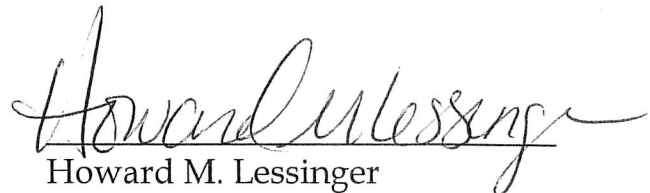
WAL-MART STORES, INC.,  
WAL-MART STORES EAST, LP,

Defendants.

12-PERSON JURY DEMAND

COME NOW Defendants, WAL-MART STORES, INC. and WAL-MART  
STORES EAST, LP and demand a trial by a jury of twelve (12) persons.

McLAIN & MERRITT, P.C.



Howard M. Lessinger  
Georgia Bar Number 447088  
Attorney for Defendant  
WAL-MART STORES, INC.  
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E.  
Suite 500  
Atlanta GA 30326-3240  
(404) 365-4514  
(404) 364-3138 (fax)  
hlessinger@mmatllaw.com



IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
CLERK, SUPERIOR COURT  
GWINNETT COUNTY, GA  
2017 MAR -6 PM 1:11

VIOLET DAVIDSON,

Civil Action File No.

17-A-01385-10

Plaintiff,

v.

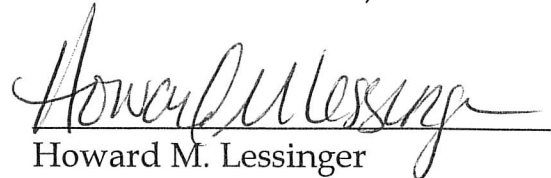
WAL-MART STORES, INC.,  
WAL-MART STORES EAST, LP,

Defendants.

NOTICE OF TAKING DEPOSITION

YOU ARE HEREBY notified that beginning on the 31st day of May, 2017, commencing at 11:00 a.m., at the offices of Perrotta & Cahn, LLC, 5 South Public Square, Cartersville, Georgia, the deposition will be taken of Violet Davidson. Said deposition will be taken for purposes of discovery and all other purposes provided by law before an officer duly authorized to administer oaths. The deposition shall continue from day-to-day until completion. This deposition may also be videotaped by a videographer.

McLAIN & MERRITT, P.C.



Howard M. Lessinger

Georgia Bar No. 447088

Attorneys for Defendants

3445 Peachtree Road, N.E.  
Suite 500  
Atlanta GA 30326  
(404) 266-9171  
(404) 364-3138 (fax)  
hlessinger@mmlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing NOTICE OF TAKING DEPOSITION upon counsel for all parties by depositing same in the United States Mail in envelopes with sufficient postage affixed thereon to insure delivery addressed as follows:

Robert W. Lamb  
Perrotta & Cahn, LLC  
5 South Public Square  
Cartersville, GA 30120

This the 3 day of March, 2017.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read "Howard M. Lessinger", with a long horizontal flourish extending to the right.

Howard M. Lessinger  
Georgia Bar No. 447088  
Attorneys for Defendants  
WAL-MART STORES, INC.  
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E.  
Suite 500  
Atlanta GA 30326  
(404) 365-4514  
(404) 364-3138 (fax)  
hlessinger@mmlaw.com

IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

FILED IN OFFICE  
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GWINNETT COUNTY, GA

2017 MAR -6 PM 1:11

VIOLET DAVIDSON,

Civil Action File No.

17-A-01385-10

RICHARD ALEXANDER, CLERK

Plaintiff,

v.

WAL-MART STORES, INC.,  
WAL-MART STORES EAST, LP,

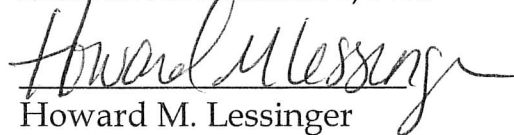
Defendants.

CERTIFICATE REGARDING DISCOVERY

Pursuant to Uniform Superior Court Rule 5.2, as amended, the undersigned hereby certifies that the following discovery has been served upon all persons identified in the Certificate of Service attached hereto and incorporated herein by reference:

- 1) DEFENDANTS' FIRST REQUEST FOR ADMISSIONS TO PLAINTIFF
- 2) DEFENDANT WAL-MART STORES EAST, LP'S FIRST INTERROGATORIES AND REQUEST FOR PRODUCTION TO PLAINTIFF

McLAIN & MERRITT, P.C.



Howard M. Lessinger

Georgia Bar No. 447088

Attorneys for Defendants

WAL-MART STORES, INC.

WAL-MART STORES EAST, LP



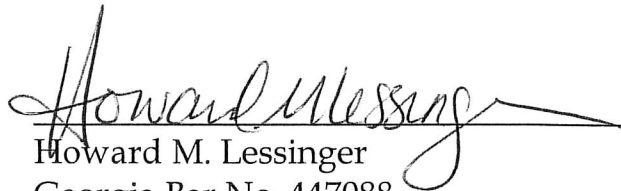
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing CERTIFICATE REGARDING DISCOVERY upon counsel for all parties by depositing same in the United States Mail in envelopes with sufficient postage affixed thereon to insure delivery addressed as follows:

Robert W. Lamb  
Perrotta & Cahn, LLC  
5 South Public Square  
Cartersville, GA 30120

This the 3<sup>rd</sup> day of March, 2017.

McLAIN & MERRITT, P.C.



Howard M. Lessinger  
Georgia Bar No. 447088  
Attorneys for Defendants  
WAL-MART STORES, INC.  
WAL-MART STORES EAST, LP

3445 Peachtree Road, N.E.  
Suite 500  
Atlanta GA 30326  
(404) 365-4514  
(404) 364-3138 (fax)  
hlessinger@mmatllegal.com



**Service of Process  
Transmittal**

03/06/2017

CT Log Number 530800340

**TO:** Kim Lundy Service of Process, Legal Support Supervisor  
Wal-Mart Stores, Inc.  
702 SW 8th St, MS#0215  
Bentonville, AR 72716-6209

**RE: Process Served in Georgia**

**FOR:** Wal-Mart Stores, Inc. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Violet Davidson, Pltf. vs. Wal-Mart Stores, Inc. and Wal-Mart Stores East, LP, Dfts.

**DOCUMENT(S) SERVED:** Summons, Complaint, First Interrogatories, First Request(s)

**COURT/AGENCY:** Gwinnett County Superior Court, GA  
Case # 17A0138510

**NATURE OF ACTION:** Personal Injury - Slip/Trip and Fall - 03/16/2015 - Store #615 - 101 Market Place  
Blvd in Cartersville, Georgia

**ON WHOM PROCESS WAS SERVED:** Corporation Process Company, Duluth, GA

**DATE AND HOUR OF SERVICE:** By Process Server on 03/06/2017 at 10:32

**JURISDICTION SERVED:** Georgia

**APPEARANCE OR ANSWER DUE:** Within 30 days after service, exclusive of the day of service

**ATTORNEY(S) / SENDER(S):** Robert W. Lamb  
Perrotta & Calm, LLC  
5 South Public Square  
Cartersville, GA 30120  
770-382-8900

**ACTION ITEMS:** CT has retained the current log, Retain Date: 03/07/2017, Expected Purge Date:  
03/12/2017  
  
Image SOP  
  
Email Notification, Kim Lundy Service of Process [ctlawsuits@walmartlegal.com](mailto:ctlawsuits@walmartlegal.com)

**SIGNED:** Corporation Process Company

**ADDRESS:** 2180 Satellite Blvd  
Duluth, GA 30097

**TELEPHONE:** 866-286-4469



IN THE SUPERIOR COURT OF GWINNETT COUNTY  
STATE OF GEORGIA

Violet Davidson,

Plaintiff,

v.

Wal-Mart Stores, Inc.,

Wal-Mart Stores East, LP

Defendant.

Civil Action File Number

**17A 01385-10**

Jury Trial Demanded

FILED IN OFFICE  
CLERK SUPERIOR COURT  
GWINNETT COUNTY, GA  
2017 FEB 15 AM 11:42  
RICHARD ALEXANDER, CLERK

**COMPLAINT FOR DAMAGES**

Now comes Violet Davidson, the Plaintiff in the above-styled civil action and presents her Complaint for Damages against Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores East, LP as follows:

1.

The Plaintiff hereby subjects herself to the jurisdiction of this Court.

2.

Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores East, LP are a business corporation and a limited partnership, respectively, formed under the laws of the State of Delaware with their principle places of business in the State of Arkansas. The Defendants conduct significant business in, and committed the torts described herein, in the State of Georgia.

3.

The Defendants can be served with process by service on their registered agent for service of process in the State of Georgia, Corporation Process Company, 2180 Satellite Blvd, Suite 400, Duluth, Gwinnett County, Georgia.

4.

Based on the foregoing, jurisdiction is proper in this Court; venue is proper under OCGA §9-10-31.

5.

Defendants own and operate a "Wal-Mart Supercenter" retail store (Wal-Mart Store Number 615) located at 101 Market Place Blvd in Cartersville, Georgia. Defendants are, and at all relevant times have been responsible for the management, monitoring, policing, inspecting, maintenance, cleaning, housekeeping and all other aspects of the operation of the Cartersville Wal-Mart store.

6.

The Plaintiff was an invitee/customer on the premises of the Wal-Mart store in Cartersville late in the evening on March 16, 2015.

7.

At the time there was a foreign substance, apparently liquid soap or a slick, soapy substance on the floor of the store. The substance rendered the floor slick and dangerous.

8.

The foreign substance had been on the floor for a significant period of time prior to Ms. Davidson's arrival at the scene. The Defendants' staff had actual knowledge and scienter of the presence of the foreign substance on the floor; specifically, there was an employee in the immediate vicinity who was aware that the substance was on the floor prior to the Plaintiff's arrival at the scene.



9.

The Defendants had discovered the substance on the floor prior to Ms. Davidson's arrival and they had the opportunity to alert customers of the presence of the hazard, but they negligently failed to do so.

10.

The Defendants had an opportunity to remove the hazard from the floor before Ms. Davidson arrived at the scene, but they negligently failed to do so.

11.

As a result of the foregoing negligent acts and omissions, when Ms. Davidson arrived at the scene, she stepped into the foreign substance and she slipped and fell. Ms. Davidson tried to catch herself when she fell. Her right leg twisted and she immediately felt pain in her right knee, hip and lower back. She reported her injuries and pain to the Defendants' staff before leaving the store.

12.

Ms. Davidson was unable to detect the substance on the floor because its color and texture matched that of the floor surrounding it. There were also distractions that prevented her view of the substance on approach. As a result, the Defendants' knowledge of the dangerous condition was superior to that of Ms. Davidson at the time of her fall.

13.

As a result of the Defendants' negligent acts and omissions described above, Ms. Davidson sustained a significant right knee injury and other injuries which caused her to incur medical expenses and to endure ongoing pain and suffering.

14.

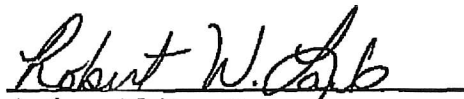
As a result of the foregoing, Ms. Davidson is entitled to recover damages from the Defendants as set out herein.

WHEREFORE, the Plaintiff prays for the following:

- a) That service of process be had upon the Defendants,
- b) That this case be tried before a jury of 12 fair and impartial jurors,
- c) That the Plaintiff be awarded special damages in an amount to compensate her for her medical and related expenses,
- d) That the Plaintiff be awarded general damages for her pain and suffering in an amount to be determined by the enlightened conscience of fair and impartial jurors,
- e) That the Plaintiff be granted all other relief that the Court deems appropriate.

This \_\_\_\_ day of February, 2017

Perrotta & Cahn, LLC



Anthony N. Perrotta

Georgia Bar Number: 572501

Robert W. Lamb

Georgia Bar Number: 631650

5 South Public Square  
Cartersville, Georgia 30130  
(770) 382-8900